



Office of City Manager

Martin Hestmark
Acting Assistant Regional Administrator
EPA Region 8 Office of Ecosystems Protection and Remediation
1595 Wynkoop Street
Denver, CO 80202

May 25, 2012

Dear Mr. Hestmark:

This letter responds to your letter to me dated April 27, 2012 regarding our conference call on April 4, 2012 about EPA's role in the waiver requested by United Park City Mines Company (UPCM) regarding waste in the Upper Watershed under the proposed multi-party settlement agreement ("Agreement"). We appreciate the time you took to discuss Park City's concern about the effect of the proposed waiver in the Agreement on Park City's ability to regulate known mine waste in our community.

As we indicated on the call and in several prior communications with EPA Region 8 over the course of the negotiations, in order to agree to the proposed waiver, Park City has asked for a commitment from EPA to perform NCP-based "removal site evaluations" at known mine sites in Park City. This would give the City Council and the Park City community some assurance that known and highly visible mine sites, like California Comstock, Silver King and Treasure Hollow, will not be future "orphan mines" and instead will be evaluated as part of the proposed Agreement to determine if they pose a risk to surface water, groundwater and human health. Those three sites, along with the Ontario Mine and Mill sites, were evaluated by the Utah Department of Environmental Quality (UDEQ) and recommended for CERCLIS listing and/or further evaluation under the CERCLA program 12 years ago. To date, EPA has not responded to UDEQ's recommendations. Failure by EPA to evaluate those sites now, in light of UDEQ's findings, risks EPA's failure to hold a solvent mine company accountable for its hazardous waste before the sites are "orphaned" and become the responsibility of the community and other tax payers.

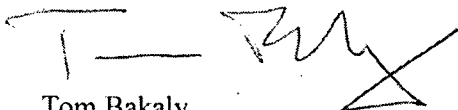
EPA's April 27 letter indicates that "EPA is prepared to review the assessment reports issued by the Utah Department of Environmental Quality to determine if further evaluation is necessary or appropriate for the five...sites...." Since EPA chose not to act on the UDEQ's reports, I hope you can understand our concern that further evaluation by EPA would result in a different

outcome that we view as our only remaining ability to obtain the technical data necessary to assure the public that Park City had fulfilled its current code and legal responsibilities prior to executing such a broad release in favor of a responsible party actively pursuing development. Park City has requested and expected that EPA would commit, in the Agreement itself, to perform site evaluations in the Upper Watershed. Park City seeks an enforceable commitment from EPA rather than the statement in the letter, to which a future Assistant Regional Administrator, or even the current signor, is not bound.

Additionally, the April 27 letter states that "Park City has requested the EPA to broaden its commitment beyond what was agreed to in February 2011 with regard to removal assessments in the Upper Watershed." On the contrary, in discussions with Park City in January and June of 2011, Park City understood that EPA officials agreed to conduct an assessment or evaluation in the Upper Watershed and Park City was informed that an EPA On Scene Coordinator with mining site experience would perform those assessments. In EPA's February letter, that obligation became a narrow assessment of "contaminant loading to Silver Creek." In June 2011, Park City was first provided by UPCM an Upper Watershed map that described the geographic scope of the waiver to include not only the Silver Creek watershed, but the adjacent East Canyon Creek Watershed. Park City's interest has been to ensure the geographic scope of the EPA assessments paralleled the geographic scope of the waiver and the reasonable pathways of exposure from these sites. The suggestion in your letter that Park City has changed the deal is incorrect.

Like EPA, Park City has long sought a mutually agreeable conclusion to the multi-party settlement agreement and has made every reasonable and good faith effort to achieve that outcome. Though Park City is not able to accept EPA's review of UDEQ's assessment reports as a quid pro quo for the mine company waiver, we agree that it would be appropriate for EPA to review the reports and determine now whether additional response actions in the Upper Watershed area of Park City are necessary to protect human health and the environment. As Mayor Williams indicated in his letter to Regional Administrator Martin today, Park City wishes to meet with EPA as soon as possible to find solutions to our mutual goals of addressing mine waste contamination in Silver Creek.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Bakaly', with a stylized flourish at the end.

Tom Bakaly
City Manager

Cc Andrea Madigan, EPA
Matt Cohn, EPA
Lori Potter, Kaplan, Kirsch and Rockwell